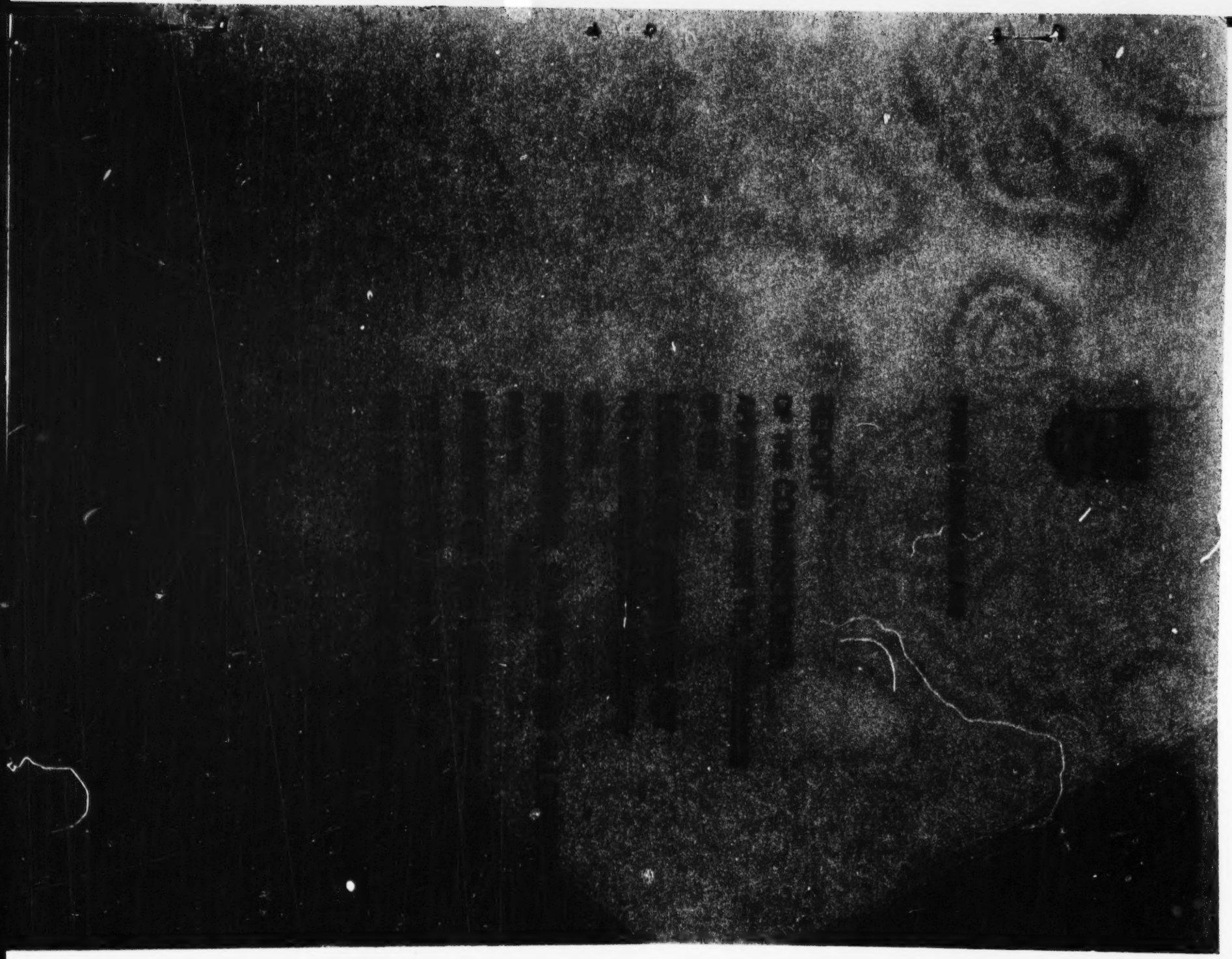

CHAMBERS OF THE CHIEF JUSTICE
CHARLOTTETOWN, P.E.I.

May 12, 1983

His Honour the Lieutenant Governor in Council
Province of Prince Edward Island

May It Please Your Honour:

I was appointed a Commission by Order in Council No. EC117/83, dated February 9, 1983, (effective December 19, 1982) to inquire into the adequacy of the annual variation of indemnities, salaries and allowances paid to Members of the Legislative Assembly, the Speaker, Deputy Speaker and Leader of the Opposition, as provided by Section 49 of the Legislative Assembly Act [1980 amendment, 29 Eliz. II, Cap. 32].

The provisions of the act require that such report is to be made "within six months (of the effective date of the appointment) to the Lieutenant Governor in Council". A fairly exhaustive review of the matters under consideration was made and a report made to the Speaker of the House in February 1980.

In fulfillment of the Commission assigned to me, I respectfully submit to Your Honour the report which accompanies this letter. I respectfully draw to Your Honour's attention that Section 49(2) of the Legislative Assembly Act provides that a report such as this: "shall be laid before the Legislative Assembly if then in session, or, if not in session, within fifteen days after the commencement of the next ensuing session".

Yours sincerely,

John P. Nicholson
Commissioner

REPORT

OF

THE HONOURABLE JOHN P. NICHOLSON

CHIEF JUSTICE OF PRINCE EDWARD ISLAND

COMMISSIONER APPOINTED UNDER

THE PROVISIONS OF

THE LEGISLATIVE ASSEMBLY ACT

TO INQUIRE INTO THE ADEQUACY

OF THE ANNUAL VARIATION OF

INDEMNITIES, SALARIES AND ALLOWANCES

PAID TO MEMBERS OF THE LEGISLATIVE ASSEMBLY,

THE SPEAKER, DEPUTY SPEAKER AND

THE LEADER OF THE OPPOSITION

MAY 12, 1983

As a result of a report of the commission established to examine and recommend on remuneration for Members of the Legislative Assembly, including additional payments provided to the Speaker, Deputy Speaker and Leader of the Opposition, and to examine and make recommendations for the ongoing determination of such remuneration, submitted to the Speaker of the Legislative Assembly on February 20th, 1980, the following amendment to the Legislative Assembly Act, R.S.P.E.I. (1974) Cap. L-11, was enacted by the Assembly and assented to on April 18th, 1980:

BE IT ENACTED by the Lieutenant Governor and Legislative Assembly of the Province of Prince Edward Island as follows:

1. *Section 45 of the Legislative Assembly Act, R.S.P.E.I. 1974, Cap. L-11 is repealed and the following is substituted therefor:*

45. (1) For the year ending December 31, 1980, there shall be paid to each member of the Legislative Assembly an indemnity of twelve thousand dollars.

(2) For the year commencing January 1, 1981, and for each year thereafter there shall be paid to each member of the Legislative Assembly an indemnity at the rate per annum that is obtained by multiplying the indemnity for the year immediately preceding the year in respect of which the indemnity is to be determined by the lesser of

(a) the percentage that the Industrial Composite for the first adjustment year is of the Industrial Composite for the second adjustment year; and

(b) one hundred and seven per cent,

rounded to the closest multiple of one hundred dollars.

(3) For the purposes of subsection (2), in computing the indemnity in relation to any year

(a) 'first adjustment year' is the twelve month period preceding the commencement of the year in respect of which the indemnity is to be determined for which the Industrial Composite is available on the first day of that year;

(b) 'second adjustment year' is the twelve month period immediately preceding the first adjustment year;

(c) 'Industrial Composite' in relation to an adjustment year is the average weekly wages and salaries of the Industrial Composite in Canada for that year as published by Statistics Canada under the authority of the Statistics Act (Can) R.S.C. 1970, Chap. S-16.

45.1 (1) For the year ending December 31, 1980, there shall be paid to each member of the Legislative Assembly an expense allowance of six thousand dollars.

(2) For the year commencing January 1, 1981, and each year thereafter there shall be paid to each member of the Legislative Assembly an expense allowance at the rate per annum that is determined by applying the formula set out in subsection 45(2) to the expense allowance for the previous year and subtracting two percentage points, rounded to the closest multiple of one hundred dollars.

45.2 (1) For the purpose of computing the amount of any indemnity or allowance payable under sections 45 and 45.1, a member shall be deemed to be a member from the polling day on which he was elected and, when the Legislative Assembly of which he is a member is dissolved, he shall be deemed to be a member until the day preceding the polling day in the general election that follows the dissolution unless he earlier dies, resigns or otherwise ceases to be a member.

45.2 (2) Payment of indemnities and allowances shall be made monthly in arrears.

2. Section 46 of the said Act is amended by the deletion of the words 'section 45' and the substitution therefor of the words 'sections 45 and 45.1'.

3. Section 47 of the said Act is amended by the deletion of the words 'sections 45 and 46' and the substitution therefor of the words 'sections 45, 45.1 and 46'.

4. Section 48 of the said Act is repealed and the following is substituted therefor:

48. (1) In addition to the amounts payable under any other provision of this Act, for the year ending December 31, 1980,

(a) the Speaker shall be paid an annual salary of five thousand dollars and an expense allowance of two thousand dollars;

(b) the Deputy Speaker shall be paid an annual salary of two thousand five hundred dollars and an expense allowance of one thousand dollars; and

(c) the Leader of the Opposition shall be paid an annual salary of sixteen thousand dollars and an expense allowance of two thousand five hundred dollars.

(2) For the year commencing January 1, 1981, and for each year thereafter

(a) the salaries specified in subsection (1) shall be adjusted by the same percentage as indemnities are adjusted pursuant to subsection 45(2);

(b) the expense allowances specified in subsection (1) shall be adjusted by the same percentage as expense allowances are adjusted pursuant to subsection 45.1(2).

(3) Payment of salaries and allowances under this section shall be made monthly in arrears.

5. After section 48 of the said Act is inserted the following section:

49. (1) Within two months after the day fixed for return of writs for each general election the Lieutenant Governor in Council shall

appoint a /

appoint a commission to inquire into the adequacy of the annual variation of indemnities, salaries and allowances paid to members of the Legislative Assembly, the Speaker, Deputy Speaker and Leader of the Opposition, and to report thereon, within six months, to the Lieutenant Governor in Council with such recommendations as the commission considers appropriate.

(2) A report under subsection (1) shall be laid before the Legislative Assembly if then in session or, if it is not in session, within fifteen days after the commencement of the next ensuing session.

6. This Act shall be deemed to have come into force on 1st January, 1980.

In the report of the Commission of February 20, 1980, to which I have referred, the Commission in considering "a formula for regular review of remuneration provided for Members of Legislative Assembly, Speaker, Deputy Speaker and Leader of Opposition", stated:

> *This aspect of our inquiry has caused us the most difficulty. The recommendations we have made will be current to the year ending December 31, 1980. There is no doubt in our minds that some mechanism should be in place to provide for the regular review of the amount of such remuneration. Should such a review be annual or less often? If we treat the work of Members of the Assembly, the Speaker, Deputy Speaker as practically 'full time jobs', then it is difficult to argue against an annual review. It is our opinion that the work done by these elected officials has become a full-time occupation and that consequently an annual review of these remunerations is desirable and should be made. It would not be practical for such an annual review to be made by an independent commission and thus some form of indexing is probably the best solution. Any annual indexing should of course be subject to a periodic review by an independent commission.*

That Commission then went on to consider various possible indexing formulae and, as a result of its recommendation, the

indexing formula set out in section 45 of the Legislative Assembly Act (referred to above) was enacted. Section 49 of the act implies that the annual increases are to continue for the duration of each General Assembly (usually four years) and that after each election "A commission to inquire into the adequacy of the annual variation of indemnities, salaries and allowances paid to Members of the Legislative Assembly, the Speaker, Deputy Speaker and Leader of the Opposition and to report thereon, etc., shall be appointed."

The amendment to the Legislative Assembly Act of 1980 (32 Eliz. II, Cap. 32) was passed at the 2nd Session of the 55th General Assembly. The 3rd and 4th Sessions took place in the years 1981 and 1982 respectively. The 55th General Assembly was dissolved on the 31st day of August 1982. A general election was held on Monday, the 27th day of September 1982, and the day fixed for the return of the Election Writs was Thursday, the 14th day of October 1982.

By Order of His Honour the Lieutenant Governor in Council of February 9th, 1983, I was appointed a commission pursuant to the provisions of section 49 of the Legislative Assembly Act. That commission reads as follows:

Executive Council
Prince Edward Island *No. EC117/83*

LEGISLATIVE ASSEMBLY ACT - COMMISSION OF INQUIRY INTO THE ADEQUACY OF INDEMNITIES, SALARIES AND ALLOWANCES

APPOINTMENT
HONOURABLE JOHN P. NICHOLSON

Council, having under further consideration section 49 of the Legislative Assembly Act (R.S.P.E.I. 1974, Cap. L-11), and the recommendation of the Minister of Justice as contained in his Memorandum to Executive Council of 18 November 1982, appointed the Chief

Justice /

Justice of Prince Edward Island, Honourable John P. Nicholson, to be a commission pursuant to subsection 49(1) of the aforesaid act effective 1 December 1982. The Chief Justice shall report to the Lieutenant Governor in Council prior to the prorogation of the 1st Session of the 56th General Assembly (1983).

(Sgd.) Douglas B. Boylan
Douglas B. Boylan, Clerk of the Executive Council

The first matter to be considered on this inquiry is the effect of the indexing formula adopted and provided for by section 45 of the Legislative Assembly Act on the indemnities, salaries and allowances paid to the Members of the Legislative Assembly generally, and in particular to the Speaker, Deputy Speaker and the Leader of the Opposition. The provisions of section 49 of the Act restrict the inquiry to those particular matters.

The following tables indicate the salaries, allowances, etc., paid or payable under the existing legislation:

Salaries and Allowances, 1981

A) MEMBERS OF THE LEGISLATIVE ASSEMBLY

Salary (taxable)	*$12,800*
Expense allowance (nontaxable)	*6,300*
TOTAL	*$19,100*

B) SPEAKER

As an MLA	*$19,100*
Salary (taxable)	*5,400*
Expense (nontaxable)	*2,100*
TOTAL	*$26,600*

C) DEPUTY SPEAKER

As an MLA	*$19,100*
Salary (taxable)	*2,700*
Expense (nontaxable)	*1,100*
TOTAL	*$22,900*

E) LEADER OF THE OFFICIAL OPPOSITION

As an MLA	$19,100	
Salary (taxable)	17,100	
Expense (nontaxable)	2,600	
TOTAL		$38,800

G) NON-MINISTERIAL MEMBERS OF THE POLICY AND PRIORITIES BOARD

As an MLA	$19,100	
Salary (taxable)	5,000	
TOTAL		$24,100

Salaries and Allowances, 1982

A) MEMBERS OF THE LEGISLATIVE ASSEMBLY

Salary (taxable	$13,700	
Expense allowance (nontaxable)	6,600	$20,300

B) SPEAKER

Salary (taxable)	5,800	
Expense (nontaxable)	2,200	
And as an MLA	20,300	28,300

C) DEPUTY SPEAKER

Salary (taxable)	2,900	
Expense (nontaxable)	1,200	
And as an MLA	20,300	24,400

F) LEADER OF THE OFFICIAL OPPOSITION

Salary (taxable)	18,300	
Expense (nontaxable)	2,700	
And as an MLA	20,300	41,300

G) NONMINISTERIAL MEMBERS, POLICY AND PRIORITIES BOARD

Salary (taxable)	5,500	
And as an MLA	20,300	25,800

Salaries and Allowances, for 1983

A) MEMBERS OF THE LEGISLATIVE ASSEMBLY

Salary (taxable).....	*$ 14,700*	
Expense allowance (nontaxable)...	*6,900*	*$21,600*

B) SPEAKER

Salary (taxable)	*6,200*	
Expense (nontaxable)	*2,300*	
And as an MLA	*21,600*	*30,100*

C) DEPUTY SPEAKER

Salary (taxable)	*3,100*	
Expense (nontaxable)	*1,300*	
And as an MLA	*21,600*	*26,100*

F) LEADER OF THE OFFICIAL OPPOSITION

Salary (taxable)	*19,600*	
Expense (nontaxable)	*2,800*	
And as an MLA	*21,600*	*44,000*

From the foregoing tables it will be seen that the indemnities and allowances paid to Members of the Assembly rose from $18,000 for the year ending December 31, 1980, to $20,300 for the year ending December 31, 1982, and, unless the annual increase calculated under the indexing formula is changed, the basic pay and allowances to all Members of the Assembly for the year ending December 31, 1983, will be $21,600. This is an increase of 20% over a four-year period. Other increases are:

Speaker (1980) $25,000	-	1983 $30,100
Deputy Speaker (1980) $21,500	-	1983 $26,100
Leader of Opposition (1980) $36,500	-	1983 $44,000

[I shall not refer at this time to the $5,000 extra salary allowed to "non-ministerial members of the Policies and Priorities Board". This allowance or salary was not subject to the indexing /

to the indexing formula]. The question to be determined on this inquiry is whether or not such allowances are adequate and what formula for increasing such indemnities, salaries and allowances for the 56th (current) General Assembly should be adopted. It may well be that such indemnities, salaries and allowances are adequate and should be fixed at their present levels for the remainder of this General Assembly; or that some indexing formula other than the one now in force should be adopted to either increase or decrease the annual increases for each year of assembly.

The situation as to remuneration of elected officials in this province as of December 31, 1982, is well summarized in the publication "Remuneration of Elected Officials", [published by the Pay Research Bureau, Public Service Staff Relations Board, Canada] as follows:

REMUNERATION OF ELECTED OFFICIALS

PRINCE EDWARD ISLAND

Indemnity and Expense Allowance

The Members elected to the Legislative Assembly of Prince Edward Island receive an indemnity of $13,700 per annum which is paid monthly. Normally, one session is held per year and no session indemnities or expenses are paid for special sessions of the Assembly. There are no penalty provisions in effect for failure to attend sittings.

For the positions listed below, the following salaries are awarded:

Position	*Salary*
Premier	*$ 37,400*
Minister	*26,400*
Leader of the Opposition	*18,300*
Speaker	*5,800*
Deputy Speaker	*2,900*

The indemnity and annual salaries were established January 1, 1982, except for the Premier and Ministers which were set (by Order-in-Council) effective April 1, 1982. The salaries and allowances of MLA's are adjusted annually in accordance with the industrial index. (1) Ministerial salaries are determined at the pleasure of Executive Council.

An expense allowance of $6,600 is designed to cover expenses incidental to the discharge of the duties as a Member and is paid in monthly installments to all Members of the Legislative Assembly. In addition to the basic expense allowance, the Leader of the Opposition receives $2,700, the Speaker receives $2,200 and the Deputy Speaker $1,200.

Miscellaneous Allowances

There are no payments available within the survey definition of travel allowances, rent subsidies, constituency or committee allowances.

An allowance to subsidize the operation of a motor vehicle (called a 'mileage allowance') is paid for each sitting day of the Legislative Assembly, computed on the basis of 19.5 cents per kilometer for one round trip per sitting between the Member's residence and Province House in Charlottetown. This allowance, which is independent of a similar allowance paid to employees of the province, is adjusted on an ad hoc basis by resolution of the Assembly. The Premier and the Ministers have access to cars through various government departments rather than by provision of the Assembly.

Office space along with furniture and supplies is provided to opposition Members and to government Members. During sessions of the Assembly,

secretarial assistance is available, 'as required', to all Members; in intersession, one secretary each is provided for the opposition and the government Members. Telephone and mail services are not subsidized although during sessions any outgoing mail can be posted free of charge via the Clerk's office. Funding for one full-time research officer for the official opposition is provided by the Assembly. There are no additional payments for committee work, although reasonable personal expenses are reimbursed.

Pension

The compulsory pension plan is not integrated with the Canada Pension Plan and provides a benefit equal to 75% of total contributions as a member, to a maximum of the average last five years indemnity and allowance, plus 75% of total contributions as a Minister to a maximum of 50% of highest annual salary. Each member of the Legislative Assembly must contribute 6.5% of their sessional indemnity, 'travel expense' and ministerial salary (if applicable) to the pension plan. Unreduced pensions can be taken at age 50, or upon ceasing to be a Member, when the Member has completed eight years of service or served in two General Assemblies. Contributions are refunded with 6.5% interest compounded annually should the incumbent cease to be a Member before becoming eligible for a pension. Survivors' benefits are paid to the spouse and children. The pension is indexed to the Canadian Consumer Price Index to a maximum of 8% per annu .

It is to be noted that the effective date of the appointment of this Commission of Inquiry is December 19th, 1982, and that section 49 contemplates that a report shall be made "within six months to the Lieutenant Governor in Council with such recommendations as the Commission considers appropriate". The report of this Commission must, if it is to comply with the statute, be made on or before June 19th, 1983. The statute is silent on the length of time the indexing formula is to remain in force, and, consequently, it may be in force until altered by legislative enactment. The statute is also silent as to what action, if any, the government should take on any recommendations this Commission may consider appropriate.

The amendment to the Legislative Assembly Act of 1980 provided that the annual indemnity of each member of the assembly for the year ending December 31, 1980, was fixed at $12,000, together with an expense allowance (tax exempt) of $6,000. The Speaker was to be paid an additional $5,000 and an additional expense allowance of $2,000. The Deputy Speaker was to be paid an additional $2,000 and an additional expense allowance of $1,000. The Leader of the Opposition was to be paid an additional $16,000 and an additional expense allowance of $2,500. The expense allowance to Members as well as the additional "salary" and expenses allowed to the Speaker, Deputy Speaker and Leader of the Opposition, were subject to annual increases in accordance with the indexing formula.

The expense allowance to Members of the General Assembly is "tax free", pursuant to section 82(2) of the Federal Income Tax Act, so long as the allowance does not exceed one-half of "the fixed amount provided by law as payable to him (or her) by way of salary, etc." That section reads as follows:

> *M.L.A.'s expense allowance. Where an elected member of a provincial legislative assembly has, under an Act of the provincial legislature, been paid an allowance in a taxation year for expenses incident to the discharge of his duties as a member, the allowance shall not be included in computing his income for the year unless it exceeds 1/2 of the maximum fixed amount provided by law as payable to him by way of salary, indemnity and other remuneration as a member in respect of attendance at a session of the legislature, in which event there shall be included in computing his income for the year only the amount by which the allowance exceeds 1/2 of that maximum fixed amount.*

The extra allowance to the Speaker, Deputy Speaker and Leader of the Opposition is not "tax free" and, consequently, might as well be designated as salary rather than "an expense allowance". However, since extra expense allowance for these particular Members of the Assembly has historical and legislative precedent for such designated "extra expense allowance", I am of the opinion that such designation should remain.

The annual increase fixed by statute was to be either 7%, or the annual Canadian Industrial Composite, whichever was the lesser. This was the indexing formula adopted by the Parliament of Canada [See Senate & House of Commons Act, R.S.C. c.249, section 34]. However, the indexing formula used to calculate annual increases to Members of Parliament and Senators was changed by amendment to the various Federal Statutes involved on July 9th, 1981. [See Statutes of Canada 29 - 30 Eliz. II (Bill C-83) Section 2]. No useful purpose would be served by detailed study of the indexing formula adopted by the Parliament of Canada by this amendment, because of the fact that Bill C-124, "The Public Sector Compensation Restraint Act", (Statutes of Canada - Bill C-124) passed August 4, 1982, has suspended the previous indexing formula. Members of Parliament, Senators and others are subject to the "six and five" wage restraint legislation of the Federal Parliament. Bill C-124, to which I have just referred, suspends previous indexing formula and, so far as Members of Parliament and the Senate of Canada are concerned, the annual increase from July 1, 1982 to December 31, 1982, was limited to 6%; for the period from January 1, 1983 to December 31, 1983, the annual increase is limited to 6%; for the period from January 1, 1984 to December 31, 1984, the annual increase is limited to 5%. By this enactment the Members of Parliament and the Senate have accepted the "six and five" restraint program.

I have reconsidered the Report of the Commission on Remuneration for Members of the Legislative Assembly of February 20th, 1980, and as a member of that commission I have now no reason to change most of the recommendations made, or any of the reasons given for making such recommendations. The workload of Members of the Assembly has not decreased since the report of February 20th, 1980, was made. The modest increases in indemnities, salaries and allowances implemented as a result of that report have not kept pace with annual increases in the cost of living, and are well below increases allowed to the public service and private sectors of the economy. In the years to come the work of Members of the Assembly and Ministers of the Government will undoubtedly increase in volume and complexity. Measures required of all levels of government to cope with problems relating to economic recovery, and the measures to be adopted to solve such problems, require more time and thoughtful consideration of possible solutions than was the case a few years ago when the need for fiscal restraint was less urgent than now.

I have no doubt that the Members of the Assembly, the Speaker, Deputy Speaker and the Leader of the Opposition, as well as Ministers of the Government, should receive annual increases in the indemnities, salaries and allowances paid to them. However, harsh economic conditions throughout Canada generally, and this province in particular, make it apparent that, if increases are to be recommended for the years of the balance of the 56th General Assembly, such increases should not be in accordance with the indexing formula set out in section 45(2)

of the Legislative /

of the Legislative Assembly Act. If the indexing formula is to be changed, as I think it should, then the Legislative Assembly Act will require amendments to reflect any changes which this inquiry may recommend, if such recommendations are acted upon.

Since the appointment of this Commission several important statements have been made by the Premier and the Minister of Finance dealing with the present financial situation of the Provincial Government and the prospect of recovery from extremely bad economic conditions which presently beset not only the government, but all sectors of the economy of the province. In conducting this inquiry it is appropriate that I consider these statements, as they may relate to the matters under consideration and to any recommendations which may be made.

On Tuesday, March 29, 1983, the Premier, The Honourable James Lee, made a speech in the House in which he discusses: "Our Government's course of action in dealing with the difficult economic realities that confront us today". The Premier goes on to state his intention "today to map a clear course of action" regarding an economic restraint program to answer the concerns of various groups in our provincial society, and to work together to solve the many problems facing the Government and other segments of the economy. The course of action proposed by the Government may be summarized as follows:

(1) To re-establish, over the course of time, a balanced budget on current account.

(2) He refers to the $6 million deficit projected for 1982 adopted /

1982 adopted "to maintain the necessary level of programs and services". By January 1983 the projected deficit of $6 million was projected to escalate to $23 million. The $17 million increase being made up of factors "largely beyond our control". In order to respond to the escalating deficit, the Government

(a) made reductions in expenditures totalling within Government to $1 million;

(b) adjusted equalization payments from Federal Government amount to a payment to the province of $3.5 million;

(c) Corporate sales tax revenues adjusted upwards by $1 million, all of which measures improved the situation by $5.5 million.

(3) Notwithstanding a projected deficit of between $17 million and $18 million, the "goal is still to restore a balanced budget". The response of the Government to this deficit, "has been and will continue to be programs of restraint".

(4) Consolidating government departments, "streamlined" operations, adopted an "envelope" system of budgeting (to ensure greater fiscal responsibility) and sought cooperation from labour and business in devising a recovery strategy in August 1982. [These were measures already taken].

(5) The Government will adopt a fiscal restraint program. Continued deficit financing must not be continued. "We adopted restraint, not as an end in itself, but as a way of providing us with the necessary flexibility to develop more clearly identified social and economic programs. Restraint leads the way to the balanced budget we seek".

(6) The Government attempted, through negotiation, to open up existing contracts and to achieve voluntary restraint by April 1, 1983. These attempts to re-negotiate existing contracts were not successful; consequently, all such contracts will remain in place.

(7) Honouring all existing contracts means a delay in balancing the budget; "nevertheless the objective which is of overriding importance to all Islanders is a balanced budget and it still remains to be achieved".

(8) The Premier refers to severe restraint measures self imposed on the private sector "struggling to stay afloat". He states: "This is restraint arising out of necessity. It is a tough response to tough times". So far as the Government is concerned, he states: "We cannot maintain the pace of (government) spending in light of decreasing revenues. At the same time we respect and want to maintain the process of free collective bargaining.

These apparently conflicting goals must be balanced".

(9) The Premier states:

> *The program that we are introducing will provide for continued collective bargaining while assisting to stabilize compensation for groups of public sector employees for a two year period.*
>
> *The entire public sector -- including government itself -- will be covered; Crown corporations, school boards, hospitals and post-secondary educational institutions.*
>
> *We will establish a Compensation Review Board with clear guidelines, clear procedures, and clear regulations. Through this Board, we will meet the objective of a balanced budget, except over a three year period rather than the two year period anticipated earlier.*

(10) The Premier concludes by stating:

> *Madam Speaker, in concluding I would like to inform the members of media, members in the gallery, and public at large, that effective April 1, 1983, M.L.A.'s salaries will be rolled back to the 1982 level for a 12 month period and that a zero percent increase will govern the first 12 months effective, April 1, 1983 to the level of 1982 salaries.*

[This latter statement by the Premier bears directly on this inquiry and cannot, in my opinion, be disregarded].

Subsequent to the restraint program outlined in the House by Premier Lee, The Honourable Lloyd G. MacPhail on April 13, 1983, delivered his Budget Speech. While the Minister has no illusions as to the hard economic times faced by the provincial government and the consequent need for restraint in government spending, nevertheless, there is a note of cautious optimism as to our economic future. I note that he states:

"Furthermore, /

"Furthermore, despite the harsh economic times, incomes have continued to grow on Prince Edward Island by about 12 1/2 per cent in 1982". This increase is nearly six per cent more than the increase in indemnities, salaries and allowances paid to Members of the Legislative Assembly in the same year. In that speech the Minister of Finance confirms the Premier's statement that a drastic restraint by the government is necessary in the next two or three years. In his speech at page 19 he states:

> *As our examination of departmental budget requirements continued, it showed a large and increasing gap between expenditures and revenue, made worse in January by notice of a further decline in the current level of equalization. The continuation of existing expenditure patterns would result in a current account deficit for 1983-84 more than double that suffered in the year just ended. Clearly, major policy changes would be required, changes which would affect the government, its employees, and the public.*

And further at pages 21 - 22:

> *Our policy is to seek further restraint of expenditures, avoiding distress as much as possible, but moving strongly to reduce the level of government services and costs to more sustainable levels. For the pursuit of savings must involve both doing less, and doing it less expensively.*
>
> *Some of these savings will come through reductions in the level of service provided by government. Many instances of discontinued or diminished programs will become apparent as Ministers describe the activities planned for their departments in the debate which follows, and in consideration of the estimates.*

And further at pages 23 - 24:

> *But the key element in the containment of costs must be salaries, for roughly half the Province's expenditures cover*

salaries or /

salaries or fees paid by the government directly or through agencies it funds. No serious program of restraint could omit measures to limit this type of expenditure.

Given the Government's importance as an employer in the community, we have naturally been reluctant to use lay-offs as a means of savings. Some lay-offs will be unavoidable as an unfortunate by-product of reduced programs and a search for more efficiency, but our government does not plan to use lay-offs as a primary weapon to achieve expenditure restraint.

It was with this intent that we held meetings with labour representatives, hoping through discussion and negotiation to arrive at an early zero and five solution to labour costs. This would have given an immediate boost to a restraint program, holding down expenses until more long term factors could begin to take effect. The reluctance of employees to agree to roll-backs of contracts already negotiated has delayed the process. Increases incorporated in the 1983-84 contracts for the Public Service Association, Registered Nurses and other hospital employees, Holland College, and the faculty of U.P.E.I. will cost approximately $12.5 million in the coming year. Honouring these multi-year contracts has thus placed a substantial burden on the budget.

And finally, after forecasting a budgetary deficit of $18,210,600, he states:

This budget incorporates many cost savings achieved through diminished or discontinued programs, through more cost effective administration, and through associated reductions in employment. All contracts are being honoured, and so the salary components of the budget have not yet absorbed their share of the restraint.

The budget is in my opinion a most realistic document in the circumstances of hard economic times which require a realistic appraisal of our economic situation. The speech must be read as a whole to fully appreciate the good understanding the Minister of Finance has on the economy of the province and methods required to be adopted if the financial problems of the province are to be met and solved. The passages I have quoted from the Budget Speech in my opinion bear directly on this inquiry.

The 1983 indemnities, salaries and allowances are as shown on Table No. 3 referred to above. The indemnities, salaries and allowances are generally paid on a calendar year, whereas the fiscal year of the government is from April 1st in one year to March 31st of the following year. I mention this because indemnities, etc. for the calendar year 1983 have already been set and payments made for the months of January, February and March.

Subsequent to the delivery of the Budget Speech, in order to properly assess the attitude of present Members of the Legislative Assembly on the questions to be determined by this Commission, I met with a member of the Government caucus and also a member of the Opposition caucus. Each of these Members assured me that they were authorized to make representations on behalf of their respective Members of the Assembly. From these Members I understand certain unanimous positions have been adopted, namely:

(1) That the /

(1) That the increases now in place for the year 1983 to which I have referred on page 8 (supra) should be "rolled back" to the 1982 levels which are set out on page 7 (supra). If a "roll back" is not possible, then the salaries, etc., should be fixed at the 1982 levels commencing April 1, 1983, and continue at that level for the fiscal year 1983-84, or until March 31, 1984.

(2) (a) That the travel allowance paid to Members during the time the Assembly is in session should be continued and that such allowance should be paid to Members of the Assembly serving on Standing or Select Committees of the House for meetings held when the House is not in session.
(b) That a per diem allowance be paid to Members of such committees for meetings held when the House is not in session. Such allowance to be not less than $75.00 per day with the chairman of such committees to receive an additional $25.00 per day.

(3) An additional allowance should be paid to the Government House Leader in an amount equal to the additional allowance paid to the Deputy Speaker.

(4) That the basic salary of Members should be increased from the 1983 level of $14,700 to a more "realistic" figure commencing in the year 1984, and that the /

and that the "tax-free" expense allowance for Members of the Assembly should be an amount equal to one-half the basic salary.

(5) No particular reference was made to the additional salaries and allowances paid to the Speaker, Deputy Speaker and Leader of the Opposition, but I understand the "roll back" to the 1983 levels is to apply to those extra salaries and allowances.

The agreement to roll back the present salaries and allowances to the 1982 levels is consistent with the restraint urged by the Minister of Finance in his budget; however, it has the effect of changing the existing calendar year payments to payments in the fiscal year, if the "roll back" is to January 1, 1983 to March 31, 1984.

The travel and per diem allowances proposed for Members of the Assembly serving on Standing and Select Committees of the Assembly for meetings held when the House is not in session deserves earnest consideration.

The proposed additional allowance to the Government House Leader is a reasonable proposal, but is beyond the terms of reference of this Commission.

The proposal to increase the basic salary or annual allowance beyond the $14,700.00 figure established for 1983 and an increase in the "tax free" allowance deserves earnest consideration. If the salaries and allowances of Members of the Assembly are rolled back to the 1982 levels, the same procedures should apply to the extra salaries and allowances paid

to the Speaker, /

to the Speaker, Deputy Speaker and Leader of the Opposition.

In addition to the agreement expressed by Members of the Assembly who appeared before me, it is appropriate that this Commission consider the statement made by Premier Lee in the Assembly on March 29, 1983, to which I have referred, when he announced the restraint program for Members of the Legislative Assembly. That statement is as follows:

> *Madam Speaker, in concluding I would like to inform the members of the media, members in the Gallery and the public at large that effective April 1, 1983, M.L.A.'s salaries will be rolled back to the 1982 level for a twelve month period and that a zero per cent increase will govern the first twelve months effective April 1, 1983 to the level of 1982 salaries.*

Clearly the government intends fiscal restraint to extend to Members of the Assembly.

The next matter to come to my attention is Bill No. 39 "Compensation Review Act", given first reading in the Assembly May 3, 1983. This proposed legislation further reinforces the expressed intention of the government to embark on a policy of severe fiscal restraint which, if enacted, will continue until the end of the fiscal year 1985-1986 (to March 31, 1986). It is not necessary for me to analyze the contents and probable impact of the legislation. The intent of the Bill is expressed in the "Explanatory Notes" as follows:

> *The bill provides for the limitation of increases in compensation in the public sector. The public sector is*

broadly defined /

> *broadly defined to include employees of the public service, Crown agencies and corporations, school boards, UPEI, Holland College, hospitals, nursing homes and addiction services. The bill applies the program to all groups of public sector employees for a period of twenty-four months from the date on which existing compensation plans expire. The maximum increase in the average hourly rate of pay in the review period is 5% and not more than 40% of the increase to be applied in the first year. However, an additional amount not exceeding 2.5% may be provided for increments and special adjustments.*

The federal government's six and five restraint program becomes a provincial government two and three restraint program.

On May 3, 1983, Premier Lee addressed the Assembly regarding the proposed "Compensation Review Act". In his address of May 3rd he referred to his speech of March 23rd in these words:

> *Madame Speaker, on March 29, in my address to this Legislative Assembly, I reviewed in detail the history of our consultations. On that occasion, I indicated that, as a matter of principle, our government would honour the contracts already in place with public sector employees. At the same time, I indicated that we must continue the momentum of our moderation program and take the measures necessary to promote recovery. The 'Compensation Review Bill' is one such measure, Madame Speaker, since it gives us the means to bring government spending in line with economic reality.*

And he further states the objectives of the bill to be:

> *To monitor increases in compensation in the public sector;*
>
> *To enable collective bargaining to continue;*

To preserve /

To preserve public services and retain job security within the ability of the employer to pay;

To ensure that compensation plans in the public sector are within the limit and fair and reasonable having regard to the guidelines;

To provide an administrative mechanism to achieve those purposes.

While there are a number of factors to be considered in determining if a compensation plan is fair and reasonable, I want to emphasize, Madame Speaker, that the ability of the employer to pay is a critical element. This may seem no more than common sense, but it is an element which has been often overlooked in the public sector.

I have referred extensively to statements of government policy because it is my belief that, while I am not bound to follow government policy in assessing the adequacy of the indemnities, salaries and allowances paid to members of the Assembly, as well as to the Speaker, Deputy Speaker and Leader of the Opposition, I must nevertheless have the overall economic condition of the government in mind when making any recommendations for increases in such allowances.

Having in mind the fiscal restraint program of the government, and the representations made to me by members of each caucus, I must conduct this inquiry in the light of those expressed policies.

The most up-to-date comparative figures for remuneration paid to private Members of the Parliament of Canada and the various /

and the various legislative assemblies in Canada is found in a 1982 "Comparative Study of Canadian Legislatures" prepared by the Administrative Branch of the Ontario Legislative Assembly. Part of that study reads as follows:

Remuneration

Remuneration paid to all private Members was increased in all jurisdictions during the past year. The level of increase (using the basic indemnity plus tax-free allowance as the comparative figures) varied from lows of 1.9% in British Columbia, 4.89% in Quebec, 5% in Alberta and 5.12% in Nova Scotia, to highs of 12.2% in New Brunswick, 14.89% in the Northwest Territories and 23.91% in Saskatchewan.

As a result of the larger increase granted to Saskatchewan Members this year, they now receive more than their counterparts in Nova Scotia. Ranking in all other instances remained the same in 1981 and 1982.

CHART A RANKING OF BASIC REMUNERATION PAID TO PRIVATE MEMBERS

(Sessional Indemnity plus Tax-Free Allowance)

H of C	*$61,900*	*H of C*	*$58,500*	*Sask.*	*23.91%*		
Quebec	*42,596*	*Quebec*	*40,610*	*N W T*	*14.89%*		
Ontario	*42,400*	*Ontario*	*40,000*	*N B*	*12.20%*		
B C	*40,047*	*B C*	*39,300*	*Man.*	*11.00%*		
N B	*34,527*	*N B*	*30,772*	*Yukon*	*10.00%*		
Alberta	*29,962*	*Alberta*	*28,535*	*Nfld.*	*7.87%*		
Man.	*29,916*	*Man.*	*26,950*	*P E I*	*6.28%*		
Yukon	*28,600*	*Yukon*	*26,000*	*Ont.*	*6.00%*		
Sask.	*28,128*	*N S*	*23,400*	*H of C*	*5.81%*		
N S	*24,600*	*Sask.*	*22,700*	*N S*	*5.12%*		
Nfld.	*22,136*	*Nfld.*	*20,520*	*Alta.*	*5.00%*		
P E I	*20,300*	*P E I*	*19,100*	*Quebec*	*4.89%*		
N W T	*16,673*	*N W T*	*14,512*	*B C*	*1.90%*		

Under the terms of the adjustment formula in place in the House of Commons, federal Members would have received an 11% increase effective January 1, 1982. However, the federal wage restraint legislation (Bill C-124) which became law on July 1, 1982 superceded this formula for a period of two years. The increase for 1982 was reduced to 6% effective January 1, 1982, and increases to take place on January 1, 1983 and January 1, 1984 are limited to maximums of 6% and 5%. The regular adjustment formula will be reinstated in 1985.

From the foregoing statement it will be seen that the basic remuneration paid to Members of the Legislative Assembly of this province as of December 31, 1982, was the lowest of all except the Northwest Territories. The question which immediately comes to mind when considering these comparative figures is whether or not the remuneration paid to Members of a Legislative Assembly should depend upon the size of the province. There can be no doubt that Members of the House of Commons are in a class by themselves. Nor can there be much doubt that Members of the Legislative Assembly of the larger provinces have a more onerous task than their counterparts in smaller provinces. However, the Atlantic Provinces in my opinion constitute a fair basis for comparison. In my opinion, the 1983 allowances, etc. paid to Members of the Legislative Assembly of this province are no more than adequate, considering all factors, including allowances, paid to Members of Legislative Assemblies of the other Atlantic Provinces. I say this notwithstanding the statement of the Premier that the salaries and allowances of the Members of the Assembly "will be rolled back to the 1982 levels for a 12-month period and that a zero percentage increase will govern the first twelve months effective April 1, 1983 to the level of 1982 salaries.

As I have pointed out, allowances paid to Members of Legislative Assemblies of other Atlantic Provinces constitute a fair basis of comparison. The most recent commission of inquiry on remuneration of elected officials in the Atlantic Provinces is that of G. Andrew MacKay, presented to the Lieutenant Governor in Council of Nova Scotia /

in Council of Nova Scotia on June 23rd, 1982. That Commission has much wider terms of reference than this inquiry, and, consequently, the recommendations made are more numerous. In that report the commission states:

> *It is submitted that, despite the current era of restraint, action should be taken without delay to increase indemnities, allowances and salaries paid under the House of Assembly Act and the Executive Council Act, whether in implementation of the recommendations now advanced or otherwise. Other recommendations here made may require further consideration by government, by the Assembly or its Members.*
>
> *In establishing remuneration for service in government and in the Legislature, government and legislators are always in an awkward position, perhaps more awkward than ever this year. However, most members of the public will appreciate the necessity for fair and reasonable remuneration for our elected legislators. The recommendations in this report meet this standard in light of the increasing commitment in time, energy and service required of Members and Ministers in recent years and the changing economic circumstances in the province including changes in others' remunerations.*
>
> *Members of government and of the Legislature have special responsibilities in serving all of us in the province and maintaining our democratic processes in doing so. Members of the House, Ministers and especially the Premier deserve appropriate compensation and support for the important work they do for all of us.*

That report recommended, among other things:

> *A. The annual indemnity and expense allowance of a Member of the Legislative Assembly be increased for each year commencing in 1982 and extending to 1985 in amounts of*
>
> *$2,000 and /*

$2,000 and $1,000 respectively over the amounts paid in the previous year.

B. The salary of the Speaker be the same as that established under the Executive Council Act for a Minister having charge of a department.

C. The salary of the Deputy Speaker be one-half of that paid to the Speaker.

D. The salary of the Leader of the Opposition, in addition to his remuneration as an M.L.A., be the same as that established under the Executive Council Act for a Minister having charge of a department.

E. The provision for indemnifying the Leader of the Opposition for expenses incurred in travelling or otherwise in the discharge of his official duties be changed if necessary to permit reimbursement of expenses incurred for travelling by an assistant travelling with the Leader, and to provide access to an automobile owned or leased by the Government when by determination of the Legislature Internal Economy Board a majority of members of the Executive Council have access to a government car.

F. The salary for a leader in the House of a recognized party, other than the Premier or Leader of the Opposition, be one-half of that fixed for the Leader of the Opposition.

It is to be noted that the basic salary of a Member of the Legislative Assembly for the Province of Nova Scotia for the year 1982 was $16,400, with a tax-free allowance of $8,200, for a total of $24,600. In that same year the Speaker received a salary of $15,000 (total $39,600); Deputy Speaker received a salary of $7,500 (total $32,100) and Leader of the Opposition received a salary of $25,000 (total $49,600). The MacKay Report, if adopted, would increase M.L.A.'s basic salary by $2,000 and the tax-free allowance by $1,000 "commencing in 1982 and ex-

tending to /

tending to 1985". The salary of the Speaker is increased "to be the same as for a Minister having charge of a department (increase of $10,000)"; the salary of the Deputy Speaker increased by $5,000; Leader of Opposition, same as Minister having charge of a department.

In order to implement the recommendations of the MacKay report, the Nova Scotia Legislature in June 1982 amended the House of Assembly Act (R.S.N.S. 1967, Chap. 128) by 31 Eliz. II, Chapter 28, which provided, among other things:

> *Effective the thirty-first day of December 1982, subsection (1) of Section 40 of said Chapter 128 is repealed and the following subsection substituted therefor:*
>
> *(1) Effective the first day of January, 1983, each member of the House shall be paid out of the Consolidated Fund of the Province an annual indemnity of nineteen thousand six hundred dollars and an annual allowance for expenses of nine thousand eight hundred dollars and on the first day of January each year thereafter the annual indemnity increases by two thousand dollars over the previous year and the annual allowance for expenses increases by one thousand dollars over the previous year.*

By that act the salaries, allowances, etc., of the Speaker, Deputy Speaker, Leader of the Opposition and others were also increased. The annual increases to Members of the Assembly apparently were to be continued "on the first day of January each year thereafter".

The Nova Scotia Legislature is now in session and legislation is currently before that Assembly in which increases to the salaries and allowances paid to Members of

that Assembly is /

that Assembly is under consideration. In the issue of "The Chronicle-Herald" of May 4th, 1983, under the headline, "House approves 13.7% raise", the following press report appears (part only):

> *Government and opposition benches dug in their respective heels Tuesday on a bill which effectively increases MLA's pay 13.7 per cent this year.*
>
> *The Liberals fought strongly against the proposed salary increases, arguing MLA's must-only take a six per cent pay hike comparable to increases awarded public servants.*
>
> *The Conservatives, on the other hand, vehemently defended the proposed raises, saying increases provided MLA's have fallen behind pay hikes for public servants in recent years.*
>
> *When the vote came yesterday after nearly four hours of debate, 25 Tory members voiced consent for the bill, 10 Liberals yelled nay and Cape Breton Labor Party leader Paul MacEwan abstained.*
>
> *The bill now goes before law amendments committee, where Opposition Leader Sandy Cameron has vowed to propose changes.*
>
> *While the bill raising their own salaries was debated yesterday, another bill limiting public service pay rates to six per cent for 1983 remains on the order paper for debate later this week.*
>
> *The bill given approval in principle yesterday proposes a six per cent increase above the salary level recommended by the MacKay Commission for 1982 ($26,400). However, last June MLA's rejected the proposed $26,400 rate and opted instead to keep their pay at $24,600 for the remainder of last year.*

The act to which the press report refers is entitled "An Act Respecting the Restraint Year of Members of the House of Assembly". As I understand the legislation it provides for an increase /

for an increase of 6% in salaries and allowances for Members of the Assembly for the year 1983 only. Section 3 of the "Restraint Year" Act provides:

> *This Act provides that 1983 shall be a restraint year for members of the House of Assembly and nothing in this Act affects the entitlement of a person to an indemnity, allowance or salary to which the person would be entitled in 1984 and subsequent years pursuant to the House of Assembly Act or the Executive Council Act and for greater certainty*
>
> *(a) those persons affected by Section 1 of this Act shall be paid for 1984 and subsequent years in accordance with Chapter 128 of the Revised Statutes, 1967, the House of Assembly Act, as amended by Chapter 28 of the Acts of 1982, and subsequently; and*
>
> *(b) those persons affected by Section 2 of this Act shall be paid for 1984 and subsequent years in accordance with Chapter 95 of the Revised Statutes, 1967, the Executive Council Act, as amended by Chapter 24 of the Acts of 1982, and subsequently, and*
>
> *for this purpose this Act is deemed never to have been enacted.*

Clearly the restraint provisions are limited to the year 1983, after which annual increases will be made as provided in the 1982 amendment. I have referred extensively to the Nova Scotia situation, as I am of the opinion that, as I have said, other Atlantic Provinces are a fair basis for comparison. In that province in admittedly harsh economic times an increase of 6% for the year 1983 has been accepted with provision for increases in the years 1984 and onward. It is apparent that the Province of Nova Scotia is now treating and will continue to treat its

elected Members /

elected Members of the Legislative Assembly better than we do in this province. Some difference may be justified, but the disparity in favour of Nova Scotia members should not be too great.

The report of February 20, 1980, made by the Commission on Remuneration for Members of the Prince Edward Island Legislative Assembly sets out in detail the work and duties of Members of the Assembly and, in my opinion, the situation in the province today remains about the same as it was in 1980, except that the economic conditions are worse and need for fiscal restraint is probably greater at this time.

I have already referred to the effect of the present indexing formula on the indemnities, salaries and allowances paid to Members of the Assembly, the Speaker, Deputy Speaker and Leader of the Opposition. In my opinion that formula has provided fair but not excessive annual increases. I am of the opinion that annual increases in the indemnities, salaries and allowances should continue, but that the indexing formula should be changed to reflect the government's expressed intention to practice "continued and increased restraint" in government expenditures. If it were not for the expressed intention of the government to limit the 1983 salaries, indemnities, etc. paid to Members of the Assembly, the Speaker, Deputy Speaker and Leader of the Opposition, (as well as the Premier and Cabinet Members), to the 1982 levels, I would have recommended

that the

that the salaries and allowances for the year 1983 be continued at the levels established and paid for the months of January, February and March 1983. Any such recommendation would be meaningless in view of the position taken by the government and apparently agreed to by the opposition.

The salary and allowance levels to be paid, according to the statement of the government, will continue from April 1, 1983, to March 31, 1984, at the 1982 levels. I am not sure of the "roll-back" provisions regarding the salaries and allowances already paid at the 1983 levels for January, February and March of this year. In any event the intention to continue the salary and allowances at the 1982 levels until March 31, 1984, will upset the calendar year payments made over the past few years. The recommendations I shall make will be made to coincide with the fiscal year of the government, i.e. April 1st in one year to March 31st of the following year.

Consequently, I make the following recommendations:

(1) The annual indemnity at the 1982 level of $13,700 for Members of the Assembly be continued until March 31, 1984.

(2) For the twelve-month period commencing March 31, 1984, and each 12-month period thereafter the sessional allowance shall be increased by 5%. This annual increase of 5% shall continue for each remaining year of the 56th General Assembly.

(3) The annual expense allowance presently fixed at $6,600 shall be continued until March 31, 1984, and thereafter be adjusted by an annual increase of 5% in the same manner as the sessional allowance is adjusted.

(4) (a) In addition to the sessional allowance and annual expense allowance paid to the Speaker of the House as a Member of the Assembly, an additional salary at the 1982 level of $5,800, together with an additional expense allowance at the 1982 level of $2,200 shall be continued until March 31, 1984.

(b) For the twelve-month period commencing January 1, 1984, and each twelve-month period thereafter, the annual additional salary and additional expense allowance shall be increased by 5%. These annual increases shall continue for each remaining year of the 56th General Assembly.

(5) (a) In addition to the sessional allowance and annual expense allowance paid to the Deputy Speaker of the House as a Member of the Assembly, an additional salary at the 1982 level of $2,900, together with an additional expense allowance at the 1982 level of $1,200 shall be /

$1,200 shall be continued until March 31, 1984.

(b) For the twelve-month period commencing March 31, 1984, and each twelve-month period thereafter the annual additional salary and additional expense allowance shall be increased by 5%. These annual increases shall continue for each remaining year of the 56th General Assembly.

(6) (a) In addition to the sessional allowance and annual expense allowance paid to the Leader of the Opposition, an additional salary at the 1982 level of $18,300, together with an additional expense allowance at the 1982 level of $2,700 shall be continued until March 31, 1984.

(b) For the twelve-month period commencing March 31, 1984, and each twelve-month period thereafter the annual additional salary and additional expense account shall be increased by 5%. These annual increases shall continue for each year of the 56th General Assembly.

(7) In addition to the sessional allowance and annual expense allowance paid to the Government House Leader as a Member of the Assembly an additional salary and allowance equal to that paid to the Deputy Speaker should be paid to the Government House Leader. This additional salary to be paid at the 1982 level /

the 1982 level and be subject to regular annual increases in the same manner as provided for the Deputy Speaker.

(8) In addition to the sessional allowance and annual expense allowance paid to a Member, such Member if serving on a Select or Standing Committee of the House should be paid mileage at the rate fixed for attending the Assembly when in session, and in addition members of such committees should be paid a per diem allowance of $75.00 when such committee meets when the House is not in session.

(9) As soon as the economic conditions of the province will permit, the basic salary or allowance should be increased to not less than $18,000, and a tax-free expense allowance of one half the basic salary should be paid.

(10) That the Legislative Assembly Act be amended, if these recommendations are accepted, so as to enable the recommendations to be acted upon. The present section 49(1) and (2) of the Legislative Assembly Act should be retained.

I note that the resolution of the General Assembly passed at the 55th General Assembly on July 26, 1979, whereby the Commission to which I have referred was established, contains the following:

BE IT FURTHER /

BE IT FURTHER RESOLVED THAT, without limiting the generality of instruction, the said Commission be requested to examine into and make recommendation as to appropriate levels of remuneration for Members, and means for the ongoing determination of such remuneration.

In interpreting the terms of the resolution that Commission stated:

The resolution of the Legislative Assembly establishing this Commission to which we have referred sets out the particular matters to be inquired into. These matters are four in number, namely:

(1) The annual remuneration paid to Members of the Legislative Assembly;

(2) The additional annual remuneration paid to the Speaker and Deputy Speaker of the Legislative Assembly;

(3) The additional annual remuneration paid to the Leader of the Opposition, and

(4) To recommend a formula whereby such remuneration would be regularly reviewed and increases made without the necessity of resorting to the legislative process on each increase.

The intention of the Assembly may have been misunderstood by that Commission as it is interpreted by (4) just quoted, because the resolution makes no reference to "increases made without resorting /

without resorting to the legislative process on each increase". The increases made under the 1980 enactment to the Legislative Assembly Act are made as a result of the legislative process. Any action taken to implement the recommendations made in this report must, as I have pointed out, be the subject of an amendment to the act.

It might be argued that the 1983 raises should not have been made, because the formula for increases was not to extend beyond the calendar year 1982, in which year the 55th General Assembly was dissolved. I have said in this report that the 1983 increases were probably properly made until the increasing formula was altered by legislation. Whether or not I am correct in this observation, I would have recommended the 1983 increases at the levels apparently established under the formula set out in the 1980 amendment, except for the reasons previously stated.

From my study of the question of problems surrounding the sensitive matter of salaries and allowances paid to elected officials, I am confident that members of elected bodies who have authority to set salaries and allowances for themselves do not care for the accusation that "they voted themselves a raise". That is why I mention at this time the circumstance that the act is silent on what is to happen if this report is not adopted. I am sure that, if any of the recommendations are adopted, they cannot be implemented without "resort to the legislative process".

The Legislative Assembly has absolute power to enact any law on a subject within its legislative competence or authority. Hence the Assembly could and should provide in its legislation what is to happen if the recommendations made by the Commission are not adopted. Such recommendations may not be acceptable, either because the recommended increases are inadequate, or excessive, or for any other reason. It seems to me that each General Assembly will be faced with the problem, if increases to the allowances are to be made, of passing legislation to provide for such increases. This problem could be avoided to some extent by making a provision in the act that the increases, such as the straight 5% as here recommended for each year of the 56th General Assembly, or any other indexing formula, shall continue into future General Assemblies in the same manner until the indexing formula is amended. If such a provision were enacted, then if the next Commission, appointed under the provisions of section 49, found the remunerations paid for the last year of the General Assembly prior to the inquiry was adequate, and that the indexing formula would be satisfactory for the years of the next General Assembly, the Commission could so recommend and, if the Assembly adopted such a recommendation, no legislative action would be necessary to have the annual increases continued. However, the provision for a commission of inquiry should, as I have said, be retained.

Assuming the recommendations herein set out are adopted, it will be possible to determine well in advance the exact amount of indemnities, salaries and allowances to be paid to Members of the Assembly, the Speaker, the Deputy Speaker and Leader of the Opposition for each year of the 56th General Assembly. The recommendations provide for fair but not excessive annual increases during the 56th General Assembly in the circumstances of severe economic restraint. If these recommendations are accepted, and section 49 of the Legislative Assembly Act is retained, a review of these indemnities, salaries and allowances will be made within a reasonable time of the commencement of the 57th Session of the General Assembly.

A list of materials considered by the Commission in making this report is set out in Appendix A.

Respectfully submitted this 12th day of May, 1983.

John P. Nicholson
Commissioner

To:

His Honour the Lieutenant Governor in Council
Province of Prince Edward Island

APPENDIX "A"

Materials Reviewed and Considered

1. Report of the Commission on Remuneration for Members of the Legislative Assembly (P. E. I.) - February 20, 1980.

2. 1980 Amendment to Legislative Assembly Act, 29 Eliz. II, Cap. 32 (Statutes of P. E. I.).

3. Order in Council of February 9, 1983, appointing this commission of inquiry.

4. P. E. I. Department of Finance records showing salaries, allowances, etc., paid to Members of Legislative Assembly, Speaker, Deputy Speaker and Leader of the Opposition for years 1981, 1982 and part of 1983.

5. Remuneration of Elected Officials 1982 [Canada Pay Research Bureau].

6. Federal Income Tax Act, Section 82(2)

7. Senate and House of Commons Act, R.S.C., c.249.

8. Statutes of Canada (1981), 29 - 30 Eliz. II (Bill C83)

9. Statutes of Canada (1982), 29 - 30 Eliz. II - Public Sector.

   Statutes of Canada, Compensation Act (Bill C124)

10. Address by The Honourable James Lee, Premier of P. E. I. on March 29, 1983, in Legislative Assembly.

11. Budget Speech delivered on April 13, 1983, by The Honourable Lloyd G. MacPhail, Minister of Finance.

12. Bill No. 39 - Compensation Review Act, now before the Assembly.

13. Address by The Honourable James Lee, on May 3, 1983, in Legislative Assembly with reference to Compensation Review Act (Bill No. 39).

... /2

14. Comparative Study of Canadian Legislatures - 1982 (Administrative Branch of the Ontario Legislature).

15. Nova Scotia Commission of Inquiry on Remuneration of Elected Provincial Officials, by G. Andrew MacKay [June 23, 1982].

16. "Chronicle-Herald" of May 4, 1983. Report of proceeding in Nova Scotia Legislative Assembly, (re salaries and allowances paid to M.L.A.'s, etc.).

17. Statutes of Nova Scotia (1982), 31 Eliz. II, Chapter 28 (Amending House of Assembly Act).

18. Nova Scotia proposed "Act Respecting the Restraint Year of Members of the House of Assembly".

19. Public Accounts - Province of P. E. I. for year ending March 31, 1981.

20. 1980 Report of Commission to Review Salaries of Members of Parliament and Senators (Dr. Cliff McIsaac and Hon. Leon Balcer).

[All of this material may be reviewed at the office of the Clerk of the Legislative Assembly].

POOR

QUALITY

ORIGINAL